IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 12000 of 2007(C)

PETITIONER:

ABHILASH P., PARAPRAMBIL HOUSE,
PALLIKKARA, KUMARAPURAM P.O., ERNAKULAM.

BY ADV. SRI.I.DINESH MENON

RESPONDENT:

THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, ERNAKULAM.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 12000/2007.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE PERMIT IN RESPECT OF SC KL 7 H 1134.

P2. COPY OF THE DECISION OF THE RTA DTD.26.9.2006.

P3. COPY OF THE APPLICATION FOR REPLACEMENT DTD.16.4.2007.

P4. COPY OF THE R.C. BOOK OF KL 40 6044.

sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

==========

W.P.(C).No.12000 of 2007

==========

Dated this the 6th day of June, 2007

J U D G M E N T

The petitioner obtained transfer of a stage carriage permit. He wants to get transfer endorsed in the permit. According to him, he is not the owner of the vehicle which was being operated as per the permit. He can use the permit only if the transfer is endorsed and thereafter for replacement of vehicle is permitted under Rule 174 of the Kerala Motor Vehicles Rules. But the respondent refused to endorse the transfer of the permit on the ground that the R.C.book of the old vehicle has not been produced. The petitioner submits that the Rules do not require production of the R.C.book of the old vehicle for endorsement of the transfer of the permit. The petitioner, therefore, seeks a direction to the respondent to endorse transfer of the permit in the permit. The learned Government Pleader submits that the R.C.book of the old vehicle has to be necessarily produced to ascertain

whether there is any tax arrears in respect of that vehicle.

2. Heard counsel on both sides.

3. The transfer of permit is governed by Section 82 of the Kerala Motor Vehicles Act and Rule 178(5)(b) of the Kerala Motor Vehicles Rules. Section 82 of Act reads thus:

> "**82.Transfer of permit.**- (1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner by the permit."

Rule 178(5)(b) reads thus:

> "(b) Upon receipt of the permit, the transport authority shall cancel the particulars of the holder thereon and endorse particulars of the transferee and shall return the permit to the transferee"

4. Neither Section 82 nor Rule 178 prescribes that for endorsement of the particulars of transferee in the permit, R.C.Book of the vehicle covered by the permit has to be produced. On the other hand, if the transfer is only of the permit and not the vehicle, it is physically not possible for the petitioner to produce the R.C.Book of the old vehicle as the same is still owned by the

transferor. Only after the endorsement of transfer is permitted, he can apply for replacement of the vehicle as contemplated in rule 174. At that time he has to necessarily produce the R.C. Book in respect of the vehicle which he intends to operate using the permit.

5. The contention of the Government Pleader that for the purpose of ascertaining whether there are tax arrears in respect of the old vehicles, the R.C.book has to be produced appears to be hollow. There are sufficient records available with the R.T.O. to ascertain whether there are tax arrears. That being so, I do not find any merit in the contentions of the learned Government Pleader. In the above circumstances, I am satisfied that the respondent has to endorse the transfer in the permit of which the petitioner is the transferee, if all other conditions are satisfied. There would be a direction to that effect.

Writ petition is disposed of as above.

sdk+ S.SIRI JAGAN, JUDGE